



State of New Jersey

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DIVISION OF FAMILY DEVELOPMENT

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The following Decision is distributed for your information. This Decision has been made in consideration of the specific facts of this case. This Decision is not to be interpreted as establishing any new mandatory policy or procedure otherwise officially promulgated.

STATE OF NEW JERSEY
DEPARTMENT OF HUMAN SERVICES

FINAL DECISION

OAL DKT. NO. HPW **00544-21 D.B.**

AGENCY DKT. NO. **S605477012 (MIDDLESEX COUNTY BD. OF SOC. SVCS.)**

Petitioner appeals from the Respondent Agency's termination of Emergency Assistance ("EA") benefits, and the imposition of a six-month period of ineligibility for EA benefits. The Agency terminated Petitioner's EA benefits, and imposed a six-month EA penalty, contending that he violated motel rules. Because Petitioner appealed, the matter was transmitted to the Office of Administrative Law for a hearing. On January 21, 2021, the Honorable Joseph A. Ascione, Administrative Law Judge ("ALJ"), held a telephonic plenary hearing, took testimony, and admitted documents. Also on January 21, 2021, the ALJ issued an Initial Decision, affirming the Agency's determination.

No Exceptions to the Initial Decision were received.

As Assistant Commissioner, Division of Family Development, Department of Human Services, I have reviewed the ALJ's Initial Decision and the record, and I hereby MODIFY the ALJ's Initial Decision, and AFFIRM the Agency's determination, based on the discussion below.

EA benefits shall not be provided for a period of six months to adult recipients who are terminated from an EA placement when the termination is the result of the recipient's actions, without good cause, which may include, but are not limited to, "[v]iolation of health and safety policies." See N.J.A.C. 10:90-6.3(c) (5).

EA recipients are required to develop and sign an EA service plan with the Agency. See N.J.A.C. 10:90-6.6(a). Failure to comply with the requirements identified in the service plan, without good cause, shall result in termination of EA benefits and a six-month period of EA ineligibility. *Ibid.*

Here, the record indicates that Petitioner executed numerous SPs which required him to comply with motel/shelter rules. See Initial Decision at 3; see also Exhibits R-2, R-4, and R-7. The ALJ found, and the record substantiates, that Petitioner failed to comply with the terms of his SP, when he violated motel rules by smoking and by cooking food in an electric frying pan in his motel room. See Initial Decision at 2-3; see also Exhibits R-5, R-8, R-9, R-11, and R-12. The ALJ also found that Petitioner had disconnected the smoke detector in his room in order to cover up his violations. See Initial Decision at 4. Of note, Petitioner also had unauthorized guests in his room which required police involvement



to have them removed. Id. at 2-3; see also Exhibit R-5, R-8, R-11, R-12, and N.J.A.C. 10:90-6.3(e)(1) (iii). Petitioner admitted to such motel rule violations. See Initial Decision at 2-3. Based on the testimony and evidence provided, the ALJ concluded that Petitioner had violated the terms of his SP, by violating motel rules, and that the Agency's termination of Petitioner's EA benefits, on that basis, was proper and must stand. See Initial Decision at 3-4; see also Exhibits R-10, R-13, and N.J.A.C. 10:90-6.6(a).

I agree with the ALJ's conclusion that Petitioner failed to comply with his SP. See Initial Decision at 3-4. However, in instances such as this, where a violation of motel/shelter rules are at issue, it is the type of violation which is controlling, not the SP. See N.J.A.C. 10:90-6.3(c) versus 10:90-6.3(e). In this case, the record indicates that Petitioner's acts of smoking and cooking in his motel room, violated motel health and safety policy rules, and on that basis, I find that Petitioner is ineligible for EA benefits for a period of six months in accordance with N.J.A.C. 10:90-6.3(c)(5). See Initial Decision at 2-3; see also Exhibits R-5, R-8, R-9, R-10, R-11, and R-12. Accordingly, I find that the Agency's termination of Petitioner's EA benefits, and the imposition of a six-month EA penalty, was proper and must stand. See Exhibits R-10. The Initial Decision is modified to reflect these findings with respect to the applicable legal basis in this case and the imposition of a six-month EA ineligibility penalty.

By way of comment, Petitioner's six-month EA ineligibility penalty shall run from January 15, 2021, the effective date of the Agency's termination of Petitioner's EA benefits, through July 14, 2021. See Exhibit R-10.

By way of further comment, the Agency shall refer Petitioner to any and all agencies and organizations that may be able to assist with his current needs, including Social Services for the Homeless.

Accordingly, the Initial Decision is hereby MODIFIED, and the Agency's action is AFFIRMED, as outlined above.

Officially approved final version.

FEB - 4 2021

Natasha Johnson
Assistant Commissioner

